

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

In the Matter of:	}	
CURTIS THOMPSON	}	
DODIE THOMPSON,	}	
	}	Case No. 16-80832-CRJ-13
	}	
	}	Chapter 13
Debtor.	}	
	}	
CURTIS THOMPSON	}	AP No. 21-80070-CRJ-13
DODIE THOMPSON,	}	
	}	
Plaintiff,	}	
	}	
v.	}	
	}	
CAPITAL ONE, NATIONAL	}	
ASSOCIATION,	}	
Defendant.	}	

**ORDER DENYING MOTION TO APPROVE COMPROMISE AND APPLICATION  
FOR COMPENSATION AND SCHEDULING PRETRIAL CONFERENCE**

This Adversary Proceeding came before the Court on January 19, 2022 for hearing upon Motion to Approve Compromise and Settlement ECF No. 14; Application for Compensation; ECF No. 15; Order to Show Cause Why Sanctions Should Not Be Imposed Pursuant to Bankruptcy Rule 9011(b)(2) and 11 U.S.C. § 105(a), ECF No. 20; Response By Capital One Auto Finance, A Division of Capital One, N.A. to Order to Show Cause, ECF No. 26; and Plaintiffs' Response to Defendant Capital One, N.A.'s Response to Order to Show Cause, ECF No. 29. Appearances were made by John Larsen, Esq., counsel for Curtis and Dodie Thompson ("Plaintiffs"); Alan D. Mathis, Esq., counsel for Capital One, N.A. ("Defendant"); and Michele T. Hatcher, Chapter 13 Trustee.

On June 2, 2021, the Plaintiffs filed a Complaint alleging that the Defendant violated the automatic stay by sending correspondence to the Plaintiffs related to a debt which was being paid through their Chapter 13 Plan in an attempt to create a security interest and perfect a lien on the

Plaintiffs' 2014 Honda Civic.<sup>1</sup> On August 4, 2021, the Defendant filed an Answer to Complaint generally denying the allegations contained in the Complaint. On October 29, 2021, the parties filed a Motion to Approve Compromise and Settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure pursuant to which the Defendant agreed to pay the Plaintiffs a total of \$17,500 to settle any and all claims arising from this Adversary Proceeding. However, the Defendant continues to deny that it violated the stay in this case.

Pursuant to 11 U.S.C. § 362(k)(1) of the Bankruptcy Code, "an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages."<sup>2</sup> Rule 9019 of the Bankruptcy Rules cannot be used to circumvent the statutory requirement under § 362(k) pursuant to which actual damages may only be awarded to an individual injured by a willful violation of the stay.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

1. The Motion to Approve Compromise and Settlement and the Application for Compensation are hereby **DENIED** without prejudice.
2. A Pretrial Conference will be held on **February 14, 2022** at **1:00 p.m.** before the Honorable Clifton R. Jessup, Jr. to discuss scheduling this Adversary Proceeding for trial on the issue of liability.

The hearing will be held via an AT&T call-in number. The dial-in number is **1-877-336-1280**. When prompted, enter the access code **#2749965**. There is no security code, and please do not select any other feature. Other cases or matters may be scheduled for telephonic hearing at the same time. Parties should call in **five minutes** prior to the start of the hearing. Once connected, please mute your phone until your case is called. After your hearing is completed, please hang up to end your call. To avoid disruption, telephonic hearing participants are expected to call from a quiet location and are not permitted to use a "speaker" function or to place the call on hold (as this may cause music or other noises to play during the hearings of other participants). Participants are encouraged to call from a landline if possible.

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<sup>1</sup> Complaint, ECF No. 1, ¶ 10.

<sup>2</sup> 11 U.S.C. § 362(k)(1).

**THIS HEARING WILL TAKE PLACE BY TELEPHONE ONLY. DO NOT COME TO THE COURTHOUSE. PLEASE SEE THE COURT'S WEBSITE FOR ADDITIONAL INFORMATION ([www.alnb.uscourts.gov](http://www.alnb.uscourts.gov)).**

Dated this the 20<sup>th</sup> day of January, 2022.

/s/ Clifton R. Jessup, Jr.  
Clifton R. Jessup, Jr.  
United States Bankruptcy Judge